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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/521,125	03/07/2000	Hartwig Kunzel	127-2911 232471US55CIP	9194
22850	7590	03/01/2004	EXAMINER	
OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314			BEFUMO, JENNA LEIGH	
			ART UNIT	PAPER NUMBER
			1771	

DATE MAILED: 03/01/2004



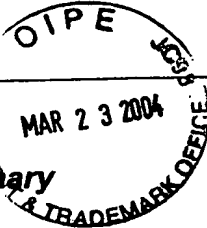
Please find below and/or attached an Office communication concerning this application or proceeding.

COPY

RECEIVED: 3/3/04
OBLON, SPIVAK, McCLELLAND
MAIER & NEUSTADT, P.C.

DOCKETING DEPT.

Initials/Date Docketed: cfp 3/3/04
Type of Resp(s): RD / RA (1st)
Due Date(s): 6/1/04 / 7/1/04



Office Action Summary

Application No.

09/521,125

Applicant(s)

KUNZEL ET AL.

Examiner

Jenna-Leigh Befumo

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 December 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5,8-13,16-23,25-27,29,30 and 33-46 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5,8-13,16-23,25-27,29,30 and 33-46 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 11/24/03
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION

Response to Amendment

1. The Amendment submitted on December 24, 2003, has been entered. Claims 6, 7, 14, 15, 24, 28, 31 and 32 have been cancelled. Claims 1 – 5, 9, 10, 16, 18, 20, 22, 23, 25 – 27, 29, and 33 have been amended and claims 35 – 46 have been added. Therefore, the pending claims are 1 – 5, 8 – 13, 16 – 23, 25 – 27, 29, 30, and 33 – 46.
2. The cancellations of claims 6, 7, 14, 15, 24, 28, 31, and 32 renders the rejections to those claims set forth in the previous Office Action moot.
3. The amendment to claim 33 is sufficient to overcome the objection to claim 33 set forth in section 8 of the previous Office Action.
4. The 35 USC 112 1st paragraph rejections set forth in sections 10 and 11 of the previous Office Action are withdrawn since the claims have been amended to only recite three-layer structures where the film layer is between the two outer layers.
5. The 35 USC 112 2nd paragraph rejection set forth in section 12 of the previous Office Action is withdrawn since the Applicant has amended the claim to clarify how many layers are in the composite material.
6. The 35 USC 102/103 and 35 USC 103 rejections based on Saiia et al. (3,445,322) is withdrawn since Saiia et al. teaches away from a layer which is permeable to water vapor by teaching that the film layer will prevent the passage of humidity (column 4, lines 23 – 25).
7. The 35 USC 102/103 rejection based on Heslop (3,632,372) is withdrawn since Heslop teaches using film layers with a thickness greater than the claimed thickness range.

Information Disclosure Statement

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8. The information disclosure statement filed November 24, 2003 fails to comply with 37 CFR 1.98(a)(2), which requires a legible copy of each U.S. and foreign patent; each publication or that portion which caused it to be listed; and all other information or that portion which caused it to be listed. It has been placed in the application file, but the information referred to therein has not been considered. The references which were crossed off the IDS list were not considered because a copy of the references was not provided.

9. Further, an explanation of relevance for various references not considered in the first IDS submitted June 22, 2000, was provided with the last response. While the explanation is sufficient to indicate why the references are relevant, not all of the references were listed on the most recent IDS. Hence, not all of these references have not been marked as considered. If the Applicant wishes that these references be considered, the Applicant must provide a clean IDS which lists all the references which were provided with summaries, but not listed on the most recent IDS.

10. Finally, it is noted that the foreign references which were provided with a machine translation were only considered to the extent of the information provided in the translation.

Claim Objections

11. Claim 5 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claims, or amend the claims to place the claims in proper dependent form, or rewrite the claims in independent form. Claim 5 fails to further limit claim 1, since claim 5 states that the film is made from polyamide which was already recited in claim 1.

Claim Rejections - 35 USC § 102/103

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12. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

13. Claims 1 – 5, 8 – 10, 16 – 23, 25, 26, 28 – 30, and 34 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over McBride et al. (5,236,754).

The features of McBride et al. have been set forth in the previous Office Action. Claims 1 – 5, 8, 10, 16, 17, 20, and 21 are rejected for the reasons of record. McBride discloses a fibrous insulation batt which is enveloped by a film which is polyamide material. The insulation material is put in floors and walls between floor joists or wall studs (column 1, lines 30 – 34). Hence, the insulation would inherently be covered by wall board or ceiling tiles. The wall board is inherently made from fiber-reinforced cellulose material. Thus, the film layer would inherently be sandwiched between an insulation batt and a second layer or carrier material which would be made from a fiber-reinforced cellulose material. Therefore, claims 9, 18, 19, 22, 23, 25, 26, 28 – 30, and 34 are also rejected by McBride et al.

Claim Rejections - 35 USC § 103

14. Claims 11, 12, 13, 27, 33, and 35 – 46 are rejected under 35 U.S.C. 103(a) as being unpatentable over McBride et al.

Claims 11 – 13, 27, and 33 are rejected for the reasons of record. Newly added claims 35 – 46 are rejected for the reasons set forth in section 18 of the previous Office Action.

Response to Arguments

15. Applicant's arguments filed December 24, 2003 have been fully considered but they are not persuasive. The arguments that McBride et al. fails to teach the claim thickness range are not

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sufficient. McBride discloses that the thickness of the film layer is less than 1 mil, preferably 0.2 to 0.6 mil. Thus, McBride et al. teaches that the film can be 25.4 μm or less. The Applicant claims that the film thickness is 20 μm to 100 μm . Thus, the thickness ranges overlap between 20 and 25.4 μm . Therefore, McBride et al. cannot teach away from the claimed range since McBride et al. teaches the claimed range. The rejection is maintained.

Conclusion

16. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jenna-Leigh Befumo whose telephone number is (571) 272-1472. The examiner can normally be reached on Monday - Friday (8:00 - 5:30).

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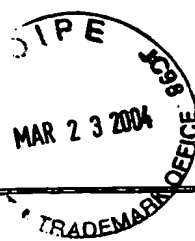
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on (571) 272-1478. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Jenna-Leigh Befumo
February 12, 2004



CHERYL A. JUSKA
PRIMARY EXAMINER



SHEET 1 OF 2

Form PTO 1449
(Modified)U.S. DEPARTMENT OF COMMERCE
PATENT AND TRADEMARK OFFICEATTY DOCKET NO.
232471US55CIPSERIAL NO.
09/521,125

LIST OF REFERENCES CITED BY APPLICANT

APPLICANT
Hartwig KUNZEL, et al.FILING DATE
March 7, 2000GROUP
1771RECEIVED
DEC 01 2003
TC 1700

U.S. PATENT DOCUMENTS

EXAMINER INITIAL	CLASS	DOCUMENT NUMBER	DATE	NAME	CLASS	SUB CLASS	FILING DATE IF APPROPRIATE
JTB	AA	3,297,518	01/10/87	Maschner, et al			
JTB	AB	3,000,070 3,908,070	09/23/75	Marzolf, et al.			
	AC						
	AD						
	AE						
	AF						
	AG						
	AH						
	AI						
	AJ						
	AK						
	AL						
	AM						
	AN						

FOREIGN PATENT DOCUMENTS

		DOCUMENT NUMBER	DATE	COUNTRY	TRANSLATION	
					YES	NO
JTB	AO	EP 0 167 714 A2	3/94	Europe (corr. To DE 34 25 795) (with computer generated English translation)		
JTB	AP	DE 35 38 597 C2	5/28/86	Germany (corr. to U.S. patent 4,630,421)		
JTB	AQ	EP 0 148 870 B1.	7/24/85	Europe		
JTB	AR	DE 93 08 678 U1	09/23/93	Germany (with computer generated English translation)		
JTB	AS	85/00188	01/17/85	WIPO		
JTB	AT	1886878		Germany		
	AU					
	AV					

OTHER REFERENCES (Including Author, Title, Date, Pertinent Pages, etc.)

	AW	Verkaufsunterlage B.I.-Natur Dampfbremsplatte armiert der Firma Ökologische Bausysteme B.I. Moll GmbH & Co KG, herausgegeben 1994, Seite 1 (with computer generated English translation)	<input type="checkbox"/> Additional References sheet(s) attached
	AX	Untersuchungsbericht des Fraunhofer-Instituts vom 11. August 1994 (with computer generated English translation)	
	AY	DRN 55 122, November 1974, Blatt 1, Seite 3/346 bis 349	
JTB	AZ	Wassertransport durch Diffusion in Feststoffen von H. Klopfer, Bauverlag GmbH, Wiesbaden und Berlin, Ausgabe 1974 (with computer generated English translation)	

Examiner

Jenna Leigh B. B.

Date Considered

2/10/04

LIST OF REFERENCES CITED BY APPLICANT

APPLICANT

Hartwig KUNZEL, et al.

FILING DATE

March 7, 2000

GROUP

OTHER REFERENCES (Including Author, Title, Date, Pertinent Pages, etc.)

Wasserdampfdiffusion im Bauwesen, Ein Leitfaden zur Verhütung von Bauschäden durch diffusionstechnisch einwandfreie Baukonstruktionen, von Dipl.-Ing. Karl Seiffert, Bauverlag GmbH, Wiesbaden und Berlin, Ausgabe 1974 (with computer generated English translation)

Bauphysikalische Entwurfslehre von Dr. Ing. Friedrich Eichler, VEB Verlag für Bauwesen, Berlin, Ausgabe 1968 (with computer generated English translation)

Prüfprotokolle Nr. PP V/88-466 vom 12.05.98 und PP V/98-452.1 vom 09.06.98 (with computer generated English translation)

IZH-Forschungsbericht, März 1994, Seite 1, 30 bis 32 und 95 bis 97 (with computer generated English translation)

DIN-Norm 52 615, November 1987, Seite 1 bis 4

Prospekt „HYGRODIODE Die duoaktive Dampfbremse“ der Fa. Isopal GmbH (with computer generated English translation)

IBP-Mitteilung 268 des Fraunhofer-Instituts für Bauphysik: „Feuchteadaptive Dampfbremse für Gebäudedämmungen“, (22) 1995 (with computer generated English translation)

Wasseraufnahme und Konditionierung von Formteilen aus Durethan, Produktinformation der Firma Bayer, 08.1995 (with computer generated English translation)

Fachartikel „Geneigte Dächer ohne chemischen Holzschutz“, von Horst Schulze, in wksb 27/1989 (with computer generated English translation)

Studies of the water vapor transmission rate and the water proofness of various commercial polymer films Caplus, 1998
Host: STN International

Polyvinyl Alcohol, Properties and Applications, ed. C.A. Finch 1973, Verlag John Wiley & Sons Ltd.

Vergleich des Verhaltens von PVA- und PA-Folien durch tabellarische Gegenüberstellung von P und kD;
Umrechnungsformeln aus der Fachzeitschrift Bauphysik, Kapitel 2.3 „Umrechnung von Diffusionskenngrößen“, Diagramm aus Fachartikel von Dr. H.M. Künzel (with computer generated English translation)

Prospekt Difunorm Verdo, „Die feuchteadaptive Dampfbremsefolie“ (with computer generated English translation)

Prospekt Sonderdruck aus Stuck-Putz-Trockenbau 55 (1997), Heft 2, Seite 34-37 „Die Folie denkt mit“ (with computer generated English translation)

Eidesstattliche Erklärung von Herrn Möll (with computer generated English translation)

Eidesstattliche Erklärung von Herrn Dr. Lusky (with computer generated English translation)

Prüfprotokoll der „Materialforschungs- und Prüfungsanstalt Leipzig e.V.“ vom 9. Juni 1998 (with computer generated English translation)

Examiner

Date Considered

2/10/04

*Examiner: Initial if reference is considered, whether or not citation is in conformance with MPEP 609; Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.